

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

SECTION 39.107 RECONSTITUTION, REPURPOSING, ALTERNATIVE
MANAGEMENT, AND CLOSURE

Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE
MANAGEMENT, AND CLOSURE. (a) After a campus has been
identified as unacceptable for two consecutive school years, the
commissioner shall order the reconstitution of the campus.

(a-1) In reconstituting a campus, a campus intervention
team shall assist the campus in:

- (1) developing an updated targeted improvement plan;
- (2) submitting the updated targeted improvement plan
to the board of trustees of the school district for approval and
presenting the plan in a public hearing as provided by Section
39.106(e-1);
- (3) obtaining approval of the updated plan from the
commissioner; and
- (4) executing the plan on approval by the
commissioner.

(b) The campus intervention team shall decide which
educators may be retained at that campus. A principal who has
been employed by the campus in that capacity during the full
period described by Subsection (a) may not be retained at that
campus unless the campus intervention team determines that
retention of the principal would be more beneficial to the
student achievement and campus stability than removal.

(b-1) A teacher of a subject assessed by an assessment
instrument under Section 39.023 may be retained only if the
campus intervention team determines that a pattern exists of

significant academic improvement by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

(b-2) For each year that a campus is considered to have an unacceptable performance rating, a campus intervention team shall:

(1) assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement;

(2) submit the updated plan to:

(A) the board of trustees of the school district; and

(B) the parents of campus students; and

(3) assist in submitting the updated plan to the commissioner for approval.

(c) A campus subject to Subsection (a) shall implement the updated targeted improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan. In making appointments under this subsection, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(d) If the commissioner determines that the campus is not fully implementing the updated targeted improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan, the commissioner may order:

(1) repurposing of the campus under this section;

(2) alternative management of the campus under this section; or

(3) closure of the campus.

(e) If a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted under Subsection (a), the commissioner, subject to Subsection (e-1) or (e-2), shall order:

- (1) repurposing of the campus under this section;
- (2) alternative management of the campus under this section; or
- (3) closure of the campus.

(e-1) The commissioner may waive the requirement to enter an order under Subsection (e) for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year.

(e-2) For purposes of this subsection, "parent" has the meaning assigned by Section 12.051. If the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents of a majority of the students enrolled at a campus to which Subsection (e) applies, specifying the action described by Subsection (e)(1), (2), or (3) that the parents request the commissioner to order, the commissioner shall, except as otherwise authorized by this subsection, order the specific action requested. If the board of trustees of the school district in which the campus is located presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific action authorized under Subsection (e) other than the specific action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board of trustees.

(e-3) For purposes of Subsection (e-2), the signature of only one parent of a student is required.

(f) If the commissioner orders repurposing of a campus, the school district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board of

trustees for approval, using the procedures described by Section 39.106(e-1), and to the commissioner for approval. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models. The commissioner may not approve the repurposing of a campus unless:

(1) all students in the assigned attendance zone of the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll in and are provided transportation on request to another campus, unless the commissioner grants an exception because there is no other campus in the district in which the students may enroll;

(2) the principal is not retained at the campus, unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and

(3) teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless the commissioner or the commissioner's designee grants an exception, at the request of a school district, for:

(A) a teacher who provides instruction in a subject other than a subject for which an assessment instrument is administered under Section 39.023(a) or (c) who demonstrates to the commissioner satisfactory performance; or

(B) a teacher who provides instruction in a subject for which an assessment instrument is administered under Section 39.023(a) or

(c) if the district demonstrates that the students of the teacher demonstrated satisfactory performance or improved academic growth on that assessment instrument.

(g) If an educator is not retained under Subsection (f), the educator may be assigned to another position in the district.

(h) If the commissioner orders alternative management under this section, the commissioner shall solicit proposals

from qualified nonprofit entities to assume management of a campus subject to this section or may appoint to assume management of a campus subject to this section a school district other than the district in which the campus is located that is located in the boundaries of the same regional education service center as the campus is located. The commissioner may solicit proposals from qualified for-profit entities to assume management of a campus subject to this section if a nonprofit entity has not responded to the commissioner's request for proposals. A district appointed under this section shall assume management of a campus subject to this section in the same manner provided by this section for a qualified entity or in accordance with commissioner rule.

(i) If the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance.

(j) The commissioner may annually solicit proposals under this section for the management of a campus subject to this section. The commissioner shall notify a qualified entity that has been approved as a provider under this section.

The district must execute a contract with an approved provider and relinquish control of the campus before January 1 of the school year.

(k) To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in campuses considered to have an unacceptable performance rating;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

(1) In selecting a managing entity under this section, the commissioner shall give preference to a qualified entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

(m) The school district may negotiate the term of a management contract for not more than five years with an option to renew the contract. The management contract must include a provision describing the district's responsibilities in supporting the operation of the campus.

The commissioner shall approve the contract before the contract is executed and, as appropriate, may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(n) A management contract under this section shall include provisions approved by the commissioner that require the managing entity to demonstrate improvement in campus performance, including negotiated performance measures. The performance measures must be consistent with the priorities of this chapter. The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract. If the evaluation fails to demonstrate improvement as negotiated under the contract by the first anniversary of the date of the management contract, the district may terminate the management contract, with the

commissioner's consent, for nonperformance or breach of contract and select another provider from an approved list provided by the commissioner. If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall terminate the management contract and select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner. If the commissioner approves the district's operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

(o) Notwithstanding any other provision of this code, the funding for a campus operated by a managing entity must be not less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received.

(p) Each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

(q) The commissioner may adopt rules necessary to implement this section.

(r) With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 895 (H.B. 3), Sec. 59, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 900 (S.B. 738), Sec. 1, eff. June 17, 2011.